REMARKS/ARGUMENTS

The applicants acknowledge, with thanks, the Office Action dated February 4, 2010. The Examiner's acceptance of the drawings filed on November 6, 2009, is noted with appreciation. Claims 1, 11, 21, and 31 have been amended herein. No claims were added or canceled. Accordingly, claims 1-44 are currently pending.

The amendments to the claims introduce no new matter. More particularly, the consolidation mode specifying means being adapted for receiving first user input corresponding to a user-selected consolidation mode relative to consolidation prior to delivery by grouping a first set of items associated with a first shipper of the associated pool transport distribution system together with a second set of items associated with a second shipper of the associated pooled transport distribution system as a pooled group of items, and relative to routing of transport of the pooled group of items associated with the first and second shippers by a single associated pool distributor of the associated pooled transport distribution system is inherent in the claims as previously presented and is described in the specification at least at paragraphs [0133] – [0135], for example.

Further, the system including reporting means for generating report data representative of distribution by the single pool distributor of a first portion of the pooled group of items to a first destination of the plurality of destinations and a second portion of the pooled group of items to a second destination of the plurality of destinations is disclosed in the specification at least at Figure 45 and as set out at paragraph [0153] of the application as published.

Reconsideration of the application as amended is respectfully requested.

The Office Action

Claims 1-44 were rejected in the Office Action of February 4, 2010 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 1-44 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0010661 to Waddington et al. (*hereinafter,* "Waddington"), in view of U.S. Patent Publication No. 2004/0138921 to Broussard et al. (*hereinafter,* "Broussard"), and in further view of U.S. Patent No. 6,988,079 to Or-Bach et al. (*hereinafter,* "Or-Bach").

In view of the amendments and arguments set forth below, it is submitted that all pending claims are patentably distinct over the art of record.

The Non-Art Matters

As noted above, claims 1-44 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner took the position in the Action that the feature in claim 1 of "grouping a set of items associated with first and second shippers prior to delivery as a pooled group of items, and routing of transport of the set of items associated with the first and second shippers by a pool distributor of the associated pooled transport distribution system" is unsupported in the specification. In particular, the Examiner noted two (2) general embodiments of the system of the application, namely a distribution center direct shipment embodiment and a pool distribution shipment embodiment. The Examiner conceded that the distribution center direct shipment embodiment is described in the specification as including the modes of grouping items associated with different shippers before delivering them as a pooled group and routing sets of items associated with different shippers by a pool distributor. However, according to the Examiner, the pool distribution shipment embodiment "seems to lack these specifics." Therefore, the Examiner argued in the Action that applicant was not in possession of the claimed invention at the time of the filing date. Independent claims 11, 21, and 31 were rejected for the same reasons.

Applicants respectfully disagree and submit that, for at least the reasons set out below, the specification describes the "specifics" of the pool distribution shipment embodiment in a manner to enable one of ordinary skill in the art to make and/or use the claimed invention without undue experimentation and, in particular, in a manner including the mode of grouping items associated with different shippers before delivering them as a pooled group, and also the mode of routing sets of items associated with different shippers by a pool distributor.

Applicants first direct the Examiner's attention to Figure 3 which is described at paragraph [0013] as "a diagram illustrating the Pool Distribution shipping model according to the present invention." Block 304 is clearly labeled "Pool Distributor Receives Freight" whereat freight from one or more Shippers (block 302) are received by the Pool Distributor. Block 306 is labeled "Pool Distributor Sorts and Segregates Freight" whereat items associated with different

shippers are grouped by the pool distributor before delivering them as a pooled group. Further, block 308 is labeled "Pool Distributor Delvers Freight to Store" whereat sets of items associated with different shippers are routed by the pool distributor.

Applicants further direct the Examiner's attention to the specification such as at paragraph [0113] for example, whereat a general disclosure of the pool distribution model embodiment is provided. As described there:

> [i]n the pool distribution model, goods are also warehoused at a distribution center; however, they are not delivered to the customer directly from the distribution center. Goods for multiple delivery points in a single geographic area are loaded on a tractor trailer at a shipper's distribution center, shipped to a secondary, usually independent, warehouse ("pool distribution point") where the goods are unloaded, sorted and segregated into single store orders. These orders are then shipped from the pool distributor to their ultimate delivery point. A diagram illustrating the distribution center direct model is shown in FIG. 3.

Thus, from the above, items associated with different shippers are grouped before delivering them as a pooled group. Also from the above, sets of items associated with different shippers are routed by the pool distributor.

A more detailed disclosure of the pool distribution model embodiment is provided at paragraph [0116] for example. As described there, wherein "WMS" refers to a "warehouse management system" and wherein "ASN" refers to an "advance shipment notice," in accordance with this embodiment:

> [i]n the pool distribution model, the WMS generates the ASN 302 after goods have been prepared for outbound shipment and loaded onto a truck bound for a pool distribution point. The ASN represents a listing of goods that should have been shipped to the pool distribution point. The ASN is transmitted to the web database via an FTP transmission. Upon receipt of the goods at the pool distribution point, the freight is scanned ("inbound scan") 304, sorted into individual store orders, and scanned again ("outbound scan") 306 to verify the integrity of the sortation, loaded onto trucks for store delivery and scanned at the store ("delivery scan") 308. If freight is being picked up at the store for return to the shipper's distribution center or transferred to another store, the freight is scanned as it leaves the store ("returns or transfer scan") 310. After the freight is scanned at each scan point, the desktop application is used to upload, process the scan data and then transmit it to the web database. A web reporting application is then used to provide online data reporting

> allowing users to make inquiries about the freight data stored in the web database.

Grouping of items associated with different shippers before delivering them as a pooled group is described in the specification at paragraphs [0134] and [0135] for example and shown in general in Figures 20 and 21. In particular, as set out in those paragraphs:

> [t]he inbound scanning process is shown in FIG. 20. Inbound scanning occurs upon the arrival of a truck from a shipper's distribution center at a pool distribution site. Here the pool distributor selects inbound scanning mode on the scanner 2002, enters information on the inbound load such as the trailer number, seal number, etc. 2004, scans the freight off of the tractor trailer 2006, and, when finished scanning all of the cartons on the trailer, uploads the data captured by the scanner to the desktop application 2008.
>
> The outbound scan/integrity check process is shown in FIG. 21. Outbound scanning/integrity check scanning occurs after the initial receipt of the shipper's freight and the inbound scan. Once the freight that has been received is sorted and segregated by store order, the outbound scan/integrity check mode 2102 is selected, the store number of the order to be checked is entered into the scanner 2104, and the cartons scanned 2106. If in the process of scanning, a carton has been mis-sorted, the scanner will emit an audible tone and the scanner will turn off. This alerts the user to an incorrect sortation. This scan also helps the pool distributor to catch any cartons that were not scanned inbound. After completing this scan, the data in the scanner is uploaded into the desktop application 2108.

Routing by the pool distributor of sets of items associated with different shippers is described in the specification at paragraphs [0136] and [0137] for example and shown in general in Figure 22. In particular, as set out in those paragraphs:

> FIG. 22 shows the delivery scanning process. Delivery scanning is performed by the driver at the store when making a delivery. Delivery scanning can be performed in either batch or preload mode. In batch mode, the scanner simply collects the data from each barcode scanned. In preload mode, the barcode numbers of cartons expected to be delivered to a particular store are loaded into the scanner 2202. When scanning a carton barcode at delivery, the scanner application compares the barcode scanned against the list of barcode carton numbers preloaded into the scanner for that store. If the barcode scanned matches the barcode preloaded, the scanner records a match. If the barcode scanned is not included in the preloaded list of cartons, the scanner records an overage. If at the end of scanning, all of the preloaded cartons are

> not scanned, the preloaded scanner application reports those cartons as shortages.
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> Whether the driver delivery scans in batch or preloaded mode, the scanning process is the same. After arriving at the store, the driver selects delivery mode on the scanner 2204, and either scans a store barcode or manually enters the store number 2206 which records the time of arrival for on-time delivery performance reporting, and then begins to scan the cartons 2208. If the driver needs to return to the truck to gather more cartons for the delivery, the driver checks out by scanning the store barcode and upon return scans the store barcode again to check in. This provides the pool distributor with a snapshot of the delivery process. At the conclusion of scanning all of the cartons, the driver enters the name of the store receiving personnel which ends the delivery scanning session. Upon return to the pool distributor's terminal, the scanner data is uploaded 2210 into the desktop application.

More detail and support regarding the routing by the pool distributor of sets of items associated with different shippers is provided in the specification in connection with delivery details at paragraph [0153] for example and shown in general in Figure 45. In particular, as set out there:

> [w]hen finished scanning all of the cartons to be delivered, the user taps the Finish button 3636. T his brings the user to the Accepted By screen 4500 shown in FIG. 45. This screen displays shipment details relating to the most recent delivery scanning session: The company 4502, the division 4504, the store number 4506, the number of cartons damaged 4508, expected 4510, misrouted 4512, actually scanned 4514 and short 4516, picked up 4518, time elapsed for the delivery 4520, and the return bill of lading number 4522 and transfer bill of lading number 4524, if any. To finish the delivery, the user must enter the store representative's name. This is done by tapping the Set button 4526 which brings the user to the Store Representative screen 4600 shown in FIG. 46 where the user taps the appropriate letters to type the store representative's name. When finished, the user taps the OK button 4602 to return to the Accepted By screen 4500. Once the store representative's name is entered, the user can select the Finish button 4528 to complete the delivery scanning session. Tapping the Back button 4530 will take the user back to the Scan Cartons screen 3600.

Still further, applicants respectfully submit that the specification contains threads therein describing in sufficient detail that in the pooled distribution model embodiment, items associated with different shippers are grouped before delivering them as a pooled group, and sets of items

associated with different shippers are routed by the pool distributor. In particular, Figures 20-29 and Figures 33-52 together with the portions of the specification relating thereto, provide adequate detailed descriptions and, accordingly, support for modes of the pooled distribution delivery embodiment recited in the claims and alleged by the Examiner to be unsupported in the specification.

For at least the above reasons, applicants respectfully submit that the specification supports grouping items associated with different shippers before delivering them as a pooled group and routing sets of items associated with different shippers by a pool distributor.

Accordingly, a withdrawal of the rejection of claims 1-44 under 35 U.S.C. §112, first paragraph is respectfully requested.

The Art Matters

As noted above, claims 1-44 were rejected as being unpatentable over Waddington in view of Broussard, and in further view of Or-Bach. In view of the amendments and arguments set forth below, it is submitted that all pending claims are patentably distinct over the art of record.

By way of general review, the subject application teaches a distribution system by which a plurality of individual retail shippers are enabled to achieve individualized control as to shipping, routing, and tracking their orders of merchandise "pushed" out to distribution points via an intermediary pooled transport distribution system. This retailer control is particularly advantageous in the pooled shipping arrangement, such as in an embodiment wherein a retail shipper may use the pooled shipping channel focused on a geographical area in common with several other retail shippers. A plurality of shipper sources send their goods to a single pool distributor of an associated pooled transport distribution system where the goods from the several sources are arranged as a pooled group and then distributed by the single pool distributor to a plurality of associated destinations. This is distinctive from more conventional shipping systems, such as FedEx or UPS, wherein a retailer (user) engages a third-party shipper, specifying the destination and delivery type (such as Express, Ground, Overnight, etc.). In such situations, the retailer sender is unconcerned with routing, and is further at the whim of the shipping company as to which tracking information is available to the sender.

The subject application contemplates systems wherein larger volume shippers, for example, retailers, have multiple items to ship to multiple locations. Different retailers have different routing than may be optimal, including a shipping path and consolidation of shipments for cost or efficiency reasons. This is especially true when a shipping company concurrently services many retail establishments, each having their own desirable shipping, routing or consolidation needs. The subject application teaches an embodiment wherein a retailer shipper having such sender-driven flexibility and control over the associated pooled transport distribution system would be afforded significant competitive advantages over more conventional shipping companies using traditional carriers such as FedEx, UPS, etc. and/or using the distribution center mode of operation.

As described at paragraph [0113] of the present application, in the pool distribution model, goods are also warehoused at a distribution center; however, they are not delivered to the customer directly from the distribution center. Goods for multiple delivery points in a single geographic area are loaded on a tractor trailer at a retail shipper's distribution center for example, and are then shipped to a secondary, usually independent, warehouse ("pool distribution point") where the goods are unloaded, sorted and segregated into single store orders together with the goods of other retailers shipping those goods to end destinations such as retail stores in a geographical area through the pool distribution point warehouse. These orders are then shipped from the pool distributor to their ultimate delivery point by one or more trucks, etc., fanning out into a corresponding set of routes to deliver the pooled goods of the multiple retailers to end destinations on the route. A diagram illustrating the pool distribution model simplified to show only a single retail shipper is shown in FIG. 3.

Waddington was cited by the Examiner and is directed to a distribution system wherein a driver is able to select his or her routing for a particular drop-off run, as well as a standardized tracking system. Each of the independent claims have been amended to include features directed to sender-driven consolidating of items prior to delivery thereof by the associated pooled transport distribution system, sender-driven system routing of the consolidated items in the associated pooled distribution system, and report data generation representative of the distribution of the pooled items of at least two shippers through a common pooled distribution channel by a single pool distributor to at least two different destinations. Applicants direct the

Examiner's attention in particular to Figure 45 of the present application wherein report data representative of delivery by a single pool distributor to a plurality of Stores (90549, 01003, etc.) on behalf of a plurality of shipper sources (BLOCKB, LTA, LIMITED) is illustrated by way of an example embodiment. For the reasons discussed earlier during prosecution and herein, it is submitted that, as amended, all claims now include features far removed from the art of record.

With regard to the above, the claims recite an electronic system, a method, and a computer-implemented method for managing items in a supply chain. For example, in the system of independent claim 1, an item information capturing means is adapted for capturing item identification information associated with a plurality of items associated with a plurality of unique shipper sources and delivery destinations, wherein each of the plurality of items is identified for supply chain management in connection with an associated pooled transport distribution system. A consolidation mode specifying means is adapted for receiving first user input corresponding to a user-selected consolidation mode relative to consolidation prior to delivery by grouping a first set of items associated with a first shipper of the associated pool transport distribution system together with a second set of items associated with a second shipper of the associated pooled transport distribution system as a pooled group of items, and relative to routing of transport of the pooled group of items associated with the first and second shippers by a single associated pool distributor of the associated pooled transport distribution system. A capturing mode specifying means is adapted for receiving second user input corresponding to each of the plurality of shipper sources, each received second user input being representative of a selection of at least one of a plurality of capturing modes, wherein each capturing mode is adapted for creating associated information by associating the captured item identification information with supply chain information in accordance with one of the plurality of shipper sources corresponding thereto. A communicating means is adapted for communicating the associated information to an associated data storage device for storage in accordance with one of the plurality of sources corresponding thereto. Still further, a means of the system is adapted for commencing distribution by the single associated pool distributor of each item of the first and second sets of items of the pooled group by the pool distributor of the associated pooled transport distribution system to a plurality of associated destinations in accordance with the consolidation and routing specified by the user-selected consolidation mode corresponding thereto. Yet still

further, reporting means of the system is configured for generating report data representative of distribution by the single pool distributor of a first portion of the pooled group of items to a first destination of the plurality of destinations and a second portion of the pooled group of items to a second destination of the plurality of destinations.

Waddington falls far short of teaching, suggesting, or fairly disclosing these features recited in the independent claims as amended in the instant application. Without conceding any of the arguments presented by the Examiner in the Office Action, applicants respectfully submit that Waddington fails to teach or fairly suggest consolidating items from different shippers prior to delivery by grouping the items from the different shippers as a pooled group of items in accordance with specified consolidation modes, commencing the distribution of the pooled group of items by a single associated pool distributor to a plurality of locations/destinations, and generating report data representative of the distribution of the pooled group of items to two or more destinations. In the claimed embodiments of the present application, unlike the system taught in Waddington, several shippers may use a single common pooled distribution channel to effect the distribution of their respective items pooled as a pooled group of items by a single pool distributor to at least two destinations within a geographical area. Thus, the shippers may enjoy the benefits of sharing the cost of the associated pooled transport distribution system while maintaining control over the consolidation and routing of their items during delivery to the selected end points in the distribution routes.

Nothing in Broussard cures these deficiencies of Waddington. The Examiner cited to Broussard for a teaching that an "NDC is a 10-digit number typically containing three (3) segments or fields: the manufacturer of distributor code field ..." in support of alleged evidence that items in Waddington may be part of delivery orders to different delivery destinations associated with UPC/NDC codes which are related to specific and unique distributors. Without conceding this, applicants respectfully submit that nothing in Broussard alone or in combination with Waddington discloses features of the amended claims and, in particular, the features noted in the paragraph above.

Also, there is no teaching or suggestion in Broussard of reporting means for generating report data representative of distribution by the single pool distributor of a first portion of the

pooled group of items to a first destination of the plurality of destinations and a second portion of the pooled group of items to a second destination of the plurality of destinations.

In addition to the above, applicants respectfully submit that nothing in Or-Bach cures these deficiencies of Waddington and/or Broussard. With regard to Or-Bach, column 8, lines 51-59 thereof cited by the Examiner in the Office Action only discloses that:

> [t]he present invention can be used in conjunction with this novel method of providing goods. Briefly, the '060 and '783 applications teach a system whereby a purchaser (e.g. an individual) can order goods from several different vendors via the internet, have the vendors send those goods to a central location where they will be collected and sent to a pick-up location where the purchaser can pick up the goods. Thus, the purchaser can make one trip to a pick-up location to pick up goods from several different vendors. A method and apparatus in accordance with the present invention is particularly adaptable for use with such a system. This system will now be described with respect to FIG. 1.

Thus, in Or-Bach, goods are delivered to a single "central location where they will be collected and sent to a pick-up location where the purchaser can pick up the goods" rather than to first and second destination by a single pool distributor of the items as asset out in the amended claims. Also, there is no teaching or suggestion in Or-Bach of reporting means for generating report data representative of distribution by the single pool distributor of a first portion of the pooled group of items to a first destination of the plurality of destinations and a second portion of the pooled group of items to a second destination of the plurality of destinations.

For at least the above reasons, applicants respectfully submit that each of independent claims 1, 11, 21, and 31 as amended above are novel, patentably distinct, and unobvious over the art of record including Waddington, Broussard, and Or-Bach. Claims 2-10 and 41 are dependent from independent claim 1. Claims 12-20 and 42 are dependent from independent claim 11. Claims 22-30 and 43 are dependent from independent claim 21. Claims 32-40 and 44 are dependent from independent claim 31.

Conclusion

In accordance with the afore-noted amendments and comments, it is submitted that all claims are patentably distinct over the art, and in condition for allowance thereover. An early allowance of all claims is respectfully requested.

If there are any fees necessitated by the foregoing communication, the Commissioner is hereby authorized to charge such fees to our Deposit Account No. 50-0902, referencing our Docket No. 78297/00001.

Respectfully submitted,

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